

BARRY GROSSMAN,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.: 3:24-cv-01022
	:	
VELVET ROPES, INC.,	:	
	:	
Defendant.	:	
	:	
	:	

Plaintiff, Barry Grossman (“Grossman” or “Plaintiff”), brings this First Amended Complaint in the United States District Court for the Middle District of Tennessee against VELVET ROPES, INC. (“Velvet Ropes” or “Defendant”), alleging as follows:

1. Grossman is an experienced, commercial photographer of over thirty-five years, specializing in interior, hospitality, portrait, product, and architecture photography. Grossman has captured images for numerous clients, including Hilton, Corcoran Group, Kohler, RTKL, Creative Mindworks, among others. Grossman's work has been published nationally and internationally, including Elle Decor Italy, Architectural Digest, Luxe, Architecture Designers Quarterly, Veranda, and Travel + Leisure. Grossman teaches online and in-person workshops on post-production and lighting techniques. Grossman resides in Groveland, Florida.

Plaintiff's First Amended Complaint

for service of process is Velvet Ropes, Inc. and can be served at its registered address located at 1831 Twelfth Avenue South #193, Nashville, Tennessee, 37203.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because Defendant has maintained sufficient minimum contacts with the State of Tennessee and as a result the exercise of personal jurisdiction over Defendant by this Court would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1400(a) because Defendant or their agent(s) reside or may be found in this district: “A defendant ‘may be found’ in a district in which he could be served with process; that is, in a district which may assert personal jurisdiction over the defendant.”

FACTS

I. The Photographs at Issue in this Lawsuit

6. On March 14, 2017, Barry Grossman captured the photographs, “PineTreeDR_Stairs-A-tight,” “Pinetree_Pool-Twilight-B-retouched,” “Pinetree_Pool-Twilight-G,” “Pinetree_Pool-Twilight-F,” “Lerner-06229,” “Lerner-2,” and “Lerner-06212,” (“Copyrighted Photographs”) copies of which are exhibited below:







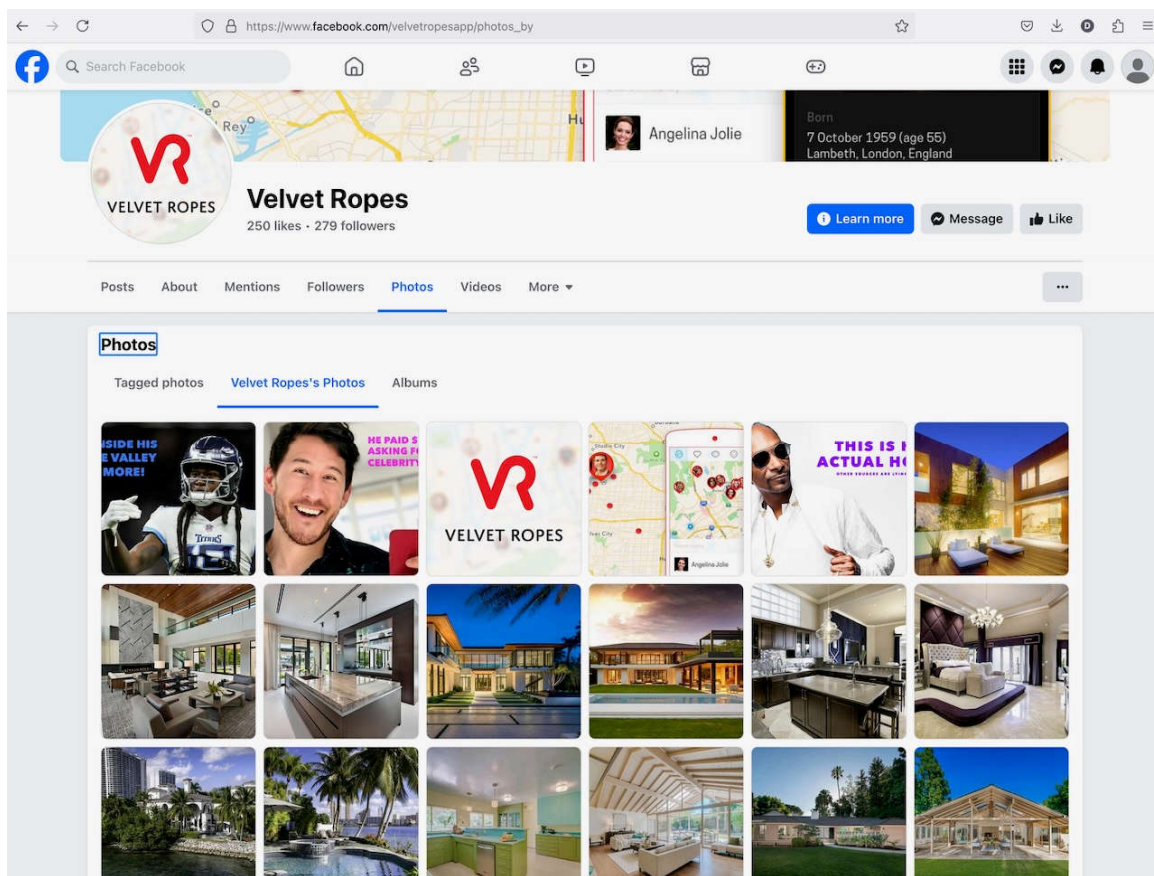
7. Copyrighted Photographs were registered by Barry Grossman with the United States Copyright Office on March 17, 2023 (Registration No.: VA 2-342-231).

8. For all times relevant to this action, Plaintiff has been the author and exclusive copyright holder of all copyright rights in and to Copyrighted Photographs. As such, Plaintiff is entitled to institute and maintain this action for copyright infringement. See 17 U.S.C. § 501(b).

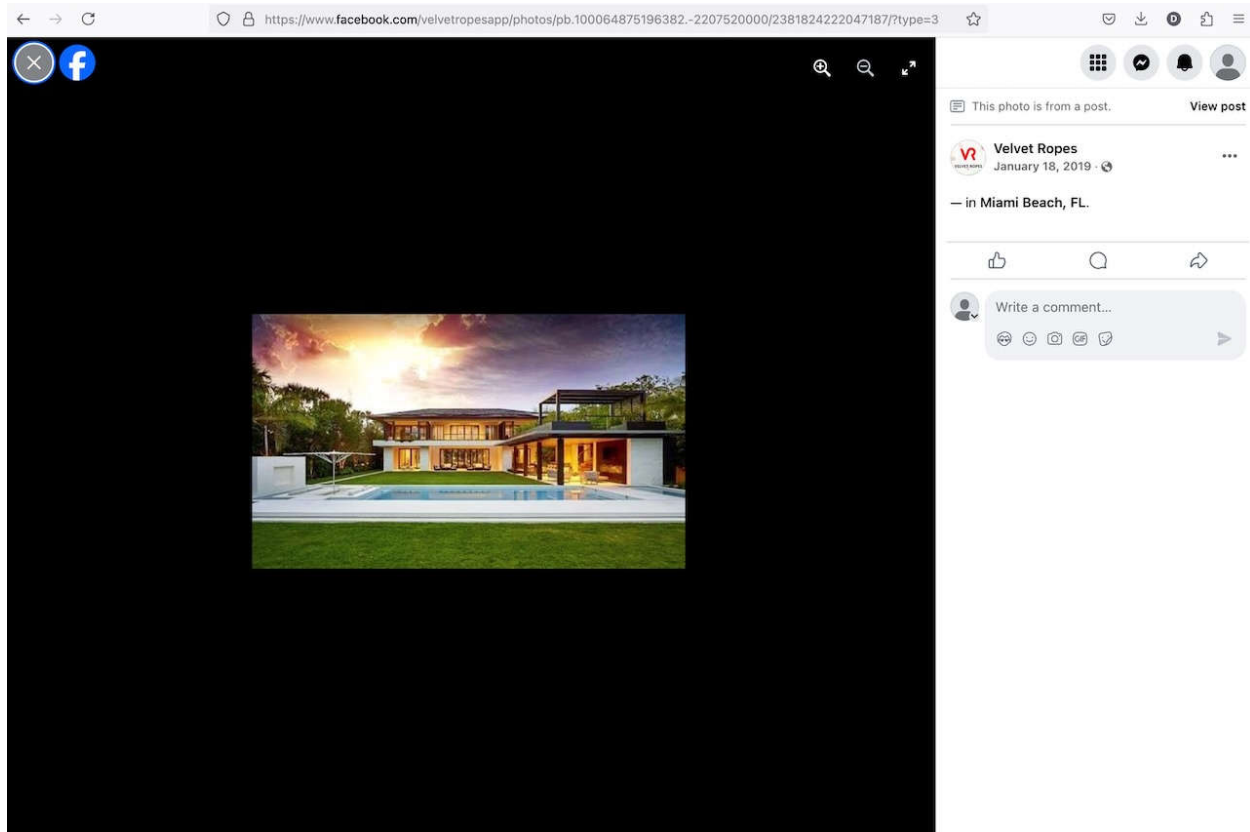
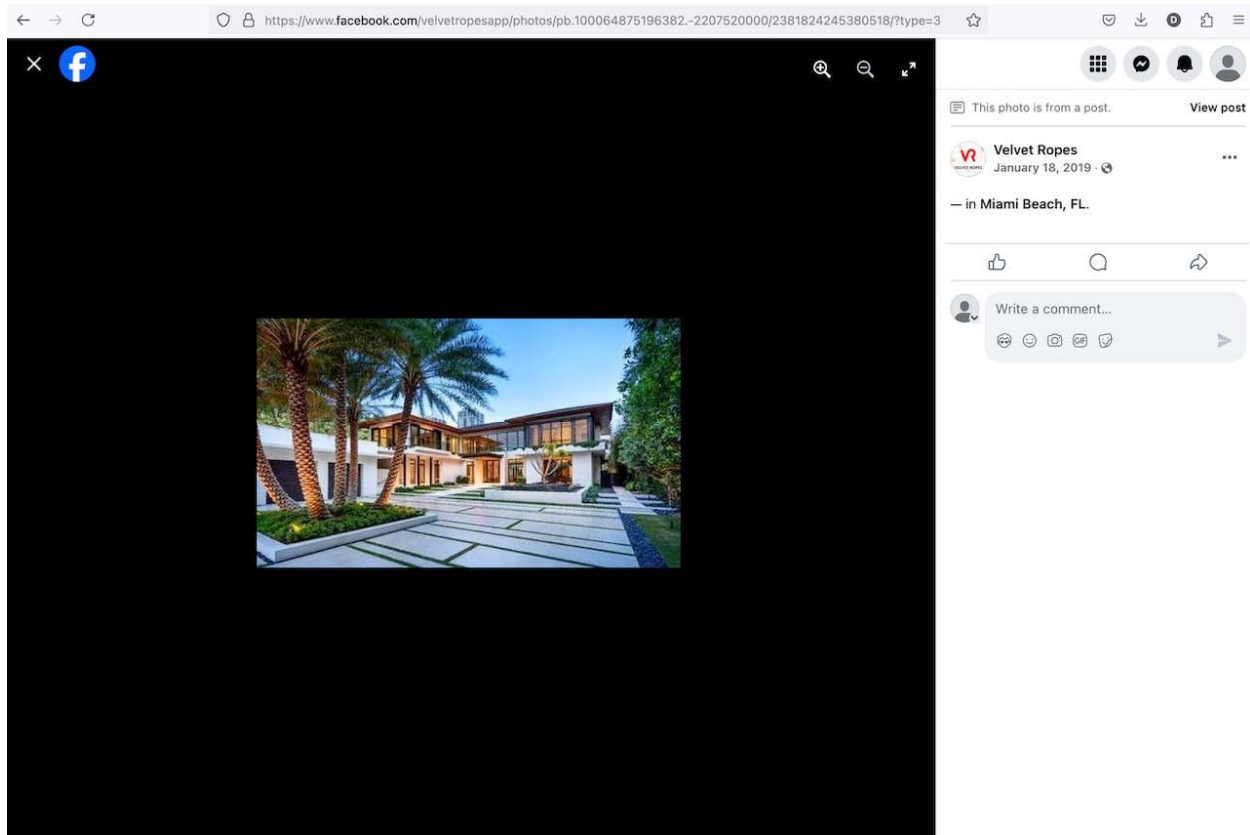
II. Defendant's Unlawful Activities

9. Velvet Ropes is an online website promoting news about celebrities and information about celebrity homes. Velvet Ropes maintains a social media presence and blog on its website, www.velvetropes.com, as well as a database of celebrity homes for members of the site.

10. Starting January 18, 2019, Velvet Ropes copied and posted Copyrighted Photographs to its Facebook feed, https://www.facebook.com/velvetropesapp/photos_by,



11. On January 18, 2019, Velvet Ropes copied and posted Copyrighted Photographs to its Facebook feed, <https://www.facebook.com/velvetropesapp/photos/pb.100064875196382.-2207520000/2381824245380518/?type=3>:



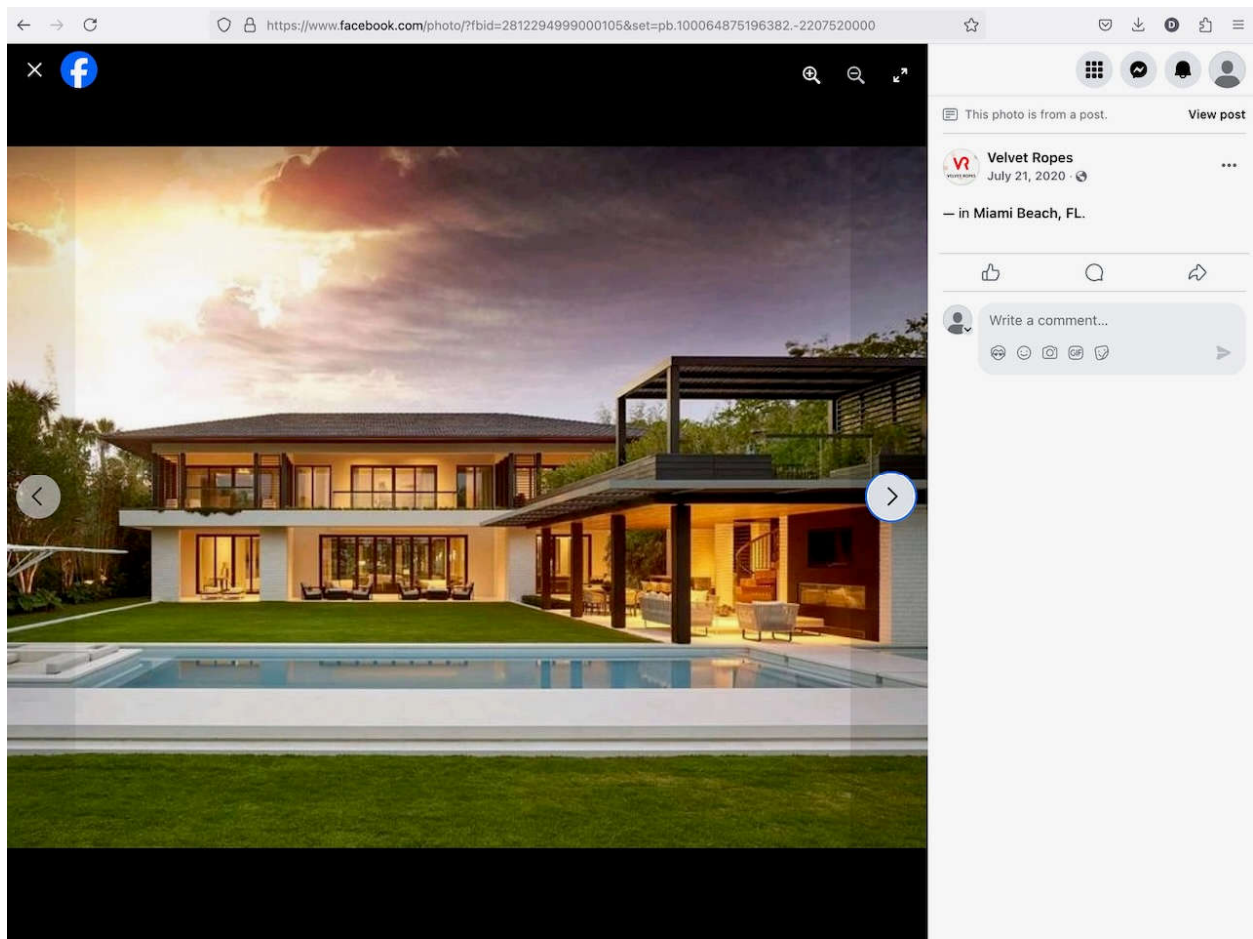
12. On or about July 21, 2020, Velvet Ropes copied and posted Copyrighted Photographs to its Facebook feed,

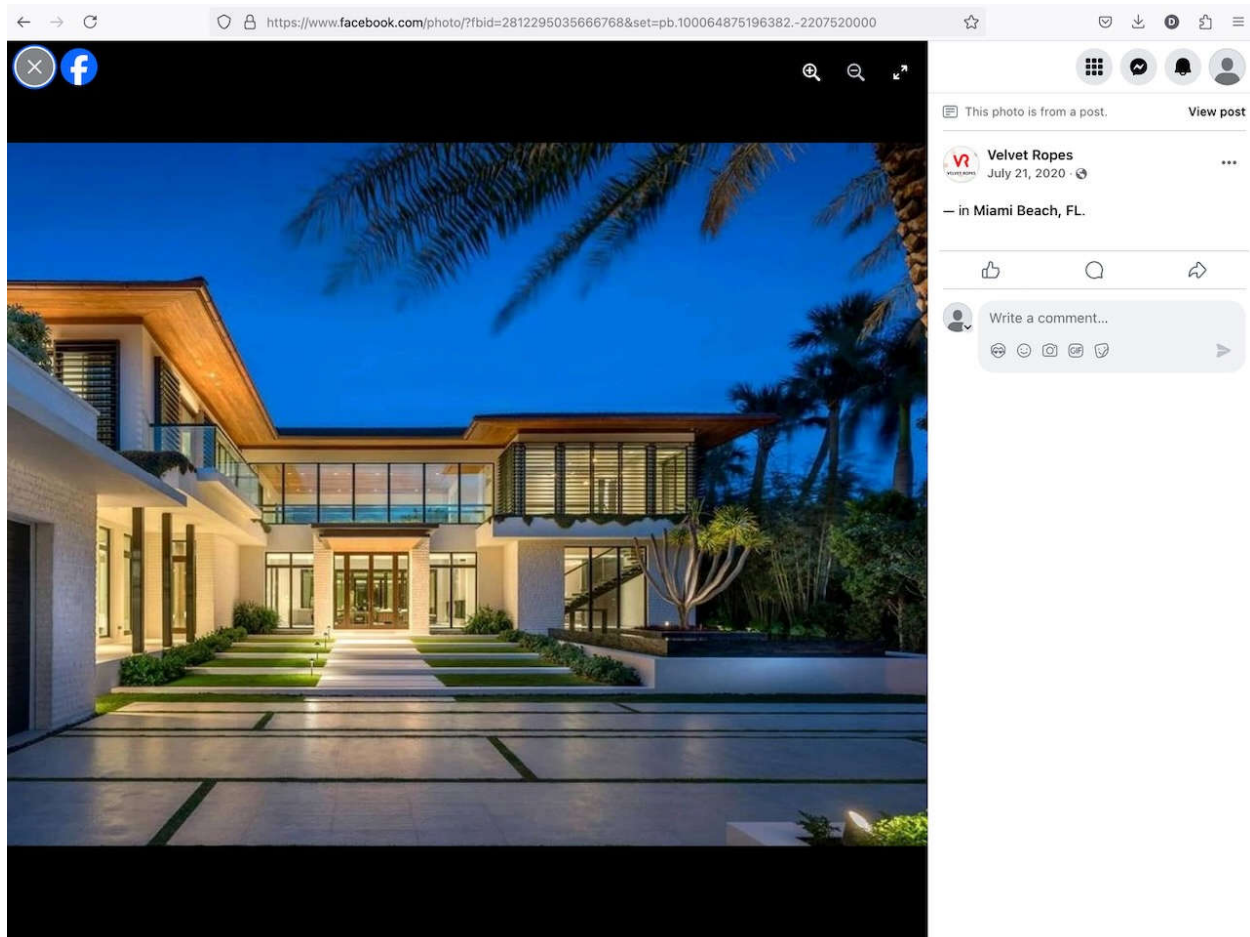
[https://www.facebook.com/photo/?fbid=281229499900010&set=pb.100064875196382.-](https://www.facebook.com/photo/?fbid=281229499900010&set=pb.100064875196382.-2207520000)

[2207520000](https://www.facebook.com/photo/?fbid=281229499900010&set=pb.100064875196382.-2207520000), and

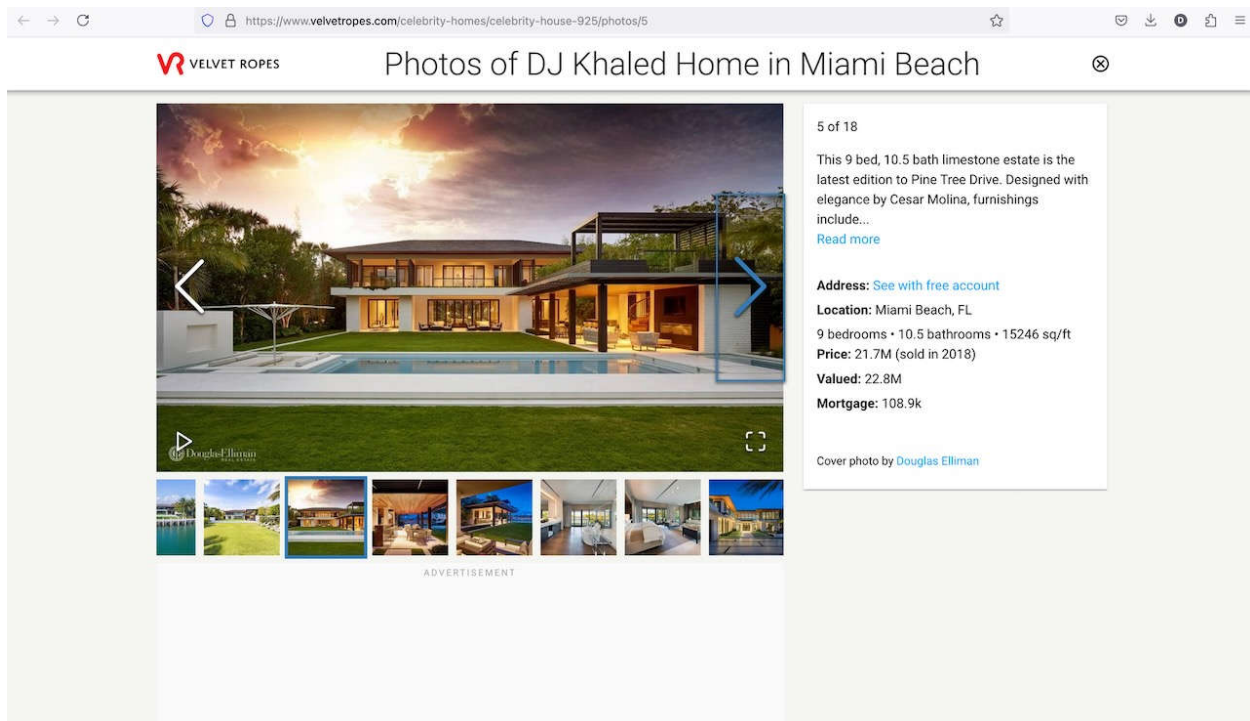
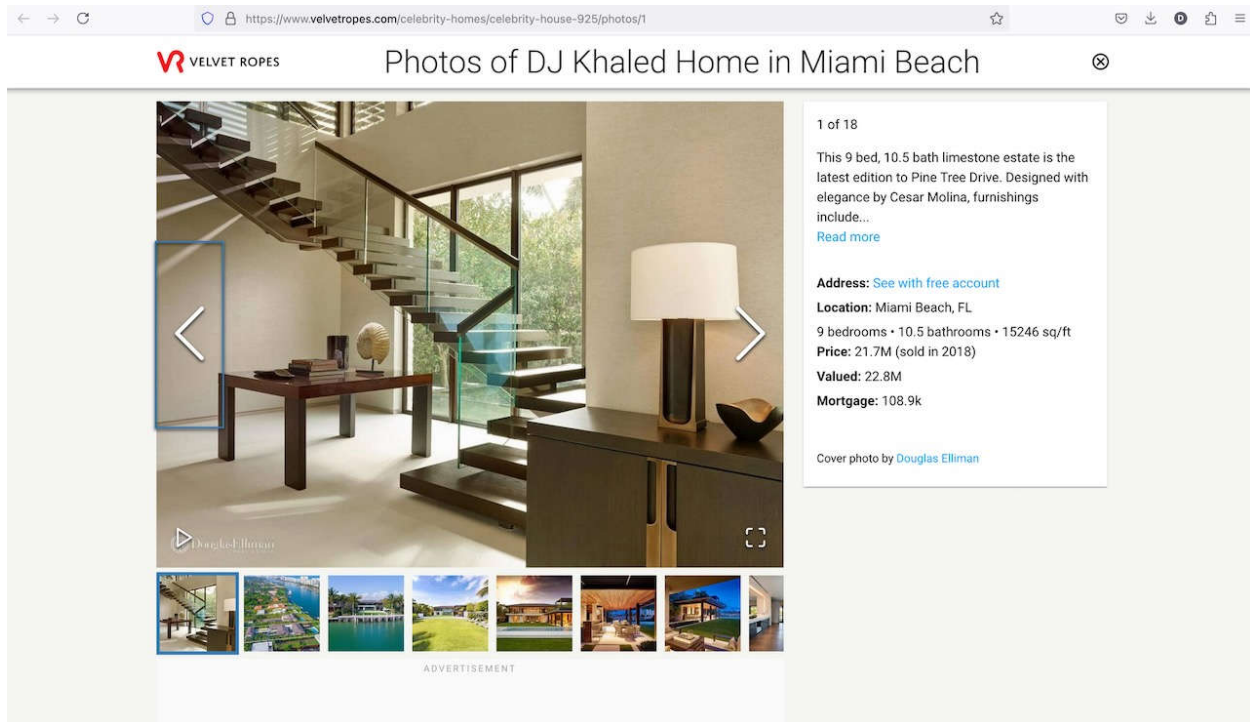
[https://www.facebook.com/photo/?fbid=2812295035666768&set=pb.100064875196382.-](https://www.facebook.com/photo/?fbid=2812295035666768&set=pb.100064875196382.-2207520000)

[2207520000](https://www.facebook.com/photo/?fbid=2812295035666768&set=pb.100064875196382.-2207520000)






13. On or about July 21, 2020, Velvet Ropes copied and posted Copyrighted Photographs to its website, <https://www.velvetropes.com/celebrity-homes/celebrity-house-925/photos/1>:



← → ↻ <https://www.velvetropes.com/celebrity-homes/celebrity-house-925/photos/6> ☆ ⌵ ⓘ ⌵ ⌵ ⌵ ⌵

VR VELVET ROPES Photos of DJ Khaled Home in Miami Beach ⓧ




6 of 18

This 9 bed, 10.5 bath limestone estate is the latest edition to Pine Tree Drive. Designed with elegance by Cesar Molina, furnishings include...
[Read more](#)

Address: [See with free account](#)
Location: Miami Beach, FL
9 bedrooms • 10.5 bathrooms • 15246 sq/ft
Price: 21.7M (sold in 2018)
Valued: 22.8M
Mortgage: 108.9k


Cover photo by [Douglas Elliman](#)



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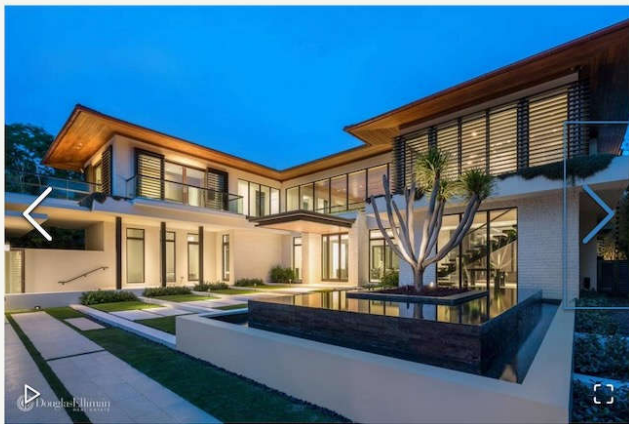
Cover photo by [Douglas Elliman](#)



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VR VELVET ROPES Photos of DJ Khaled Home in Miami Beach ⓧ




17 of 18

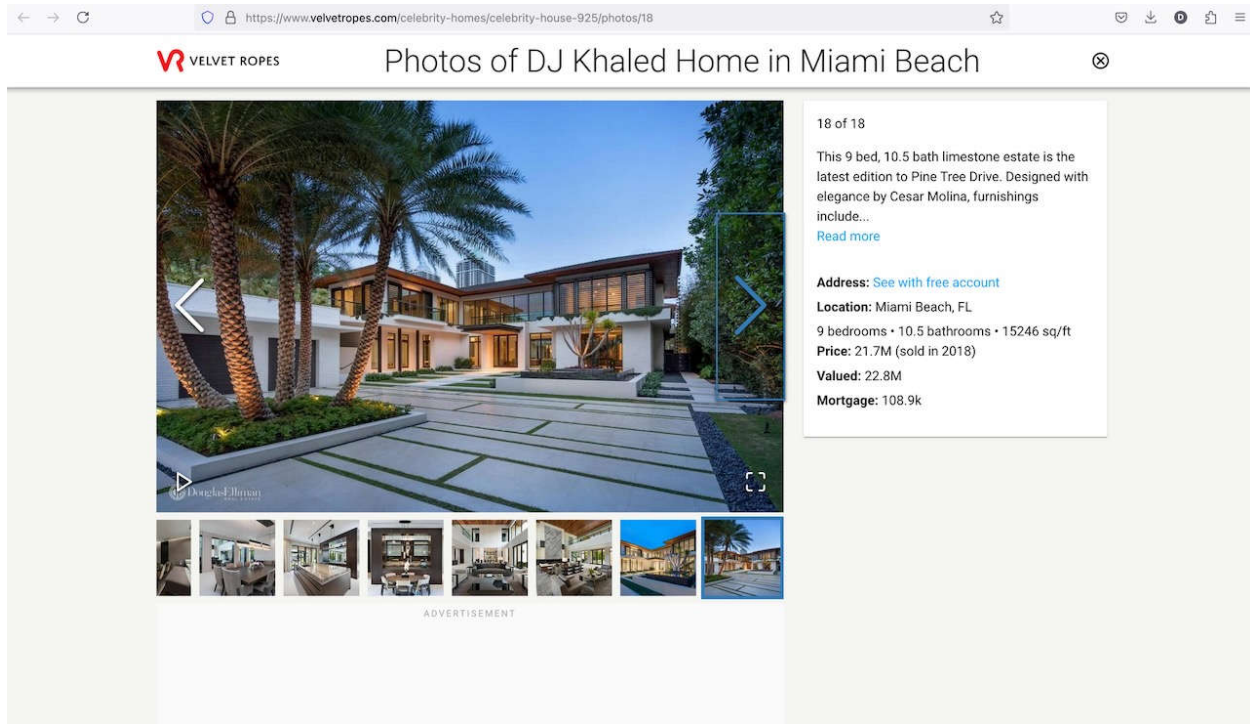
This 9 bed, 10.5 bath limestone estate is the latest edition to Pine Tree Drive. Designed with elegance by Cesar Molina, furnishings include...
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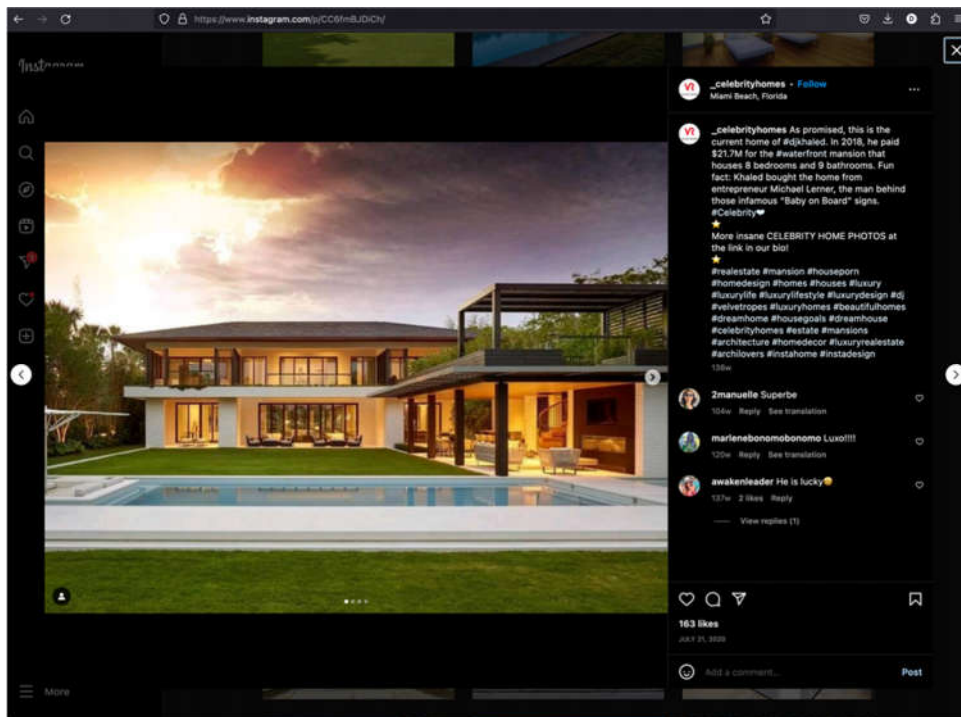
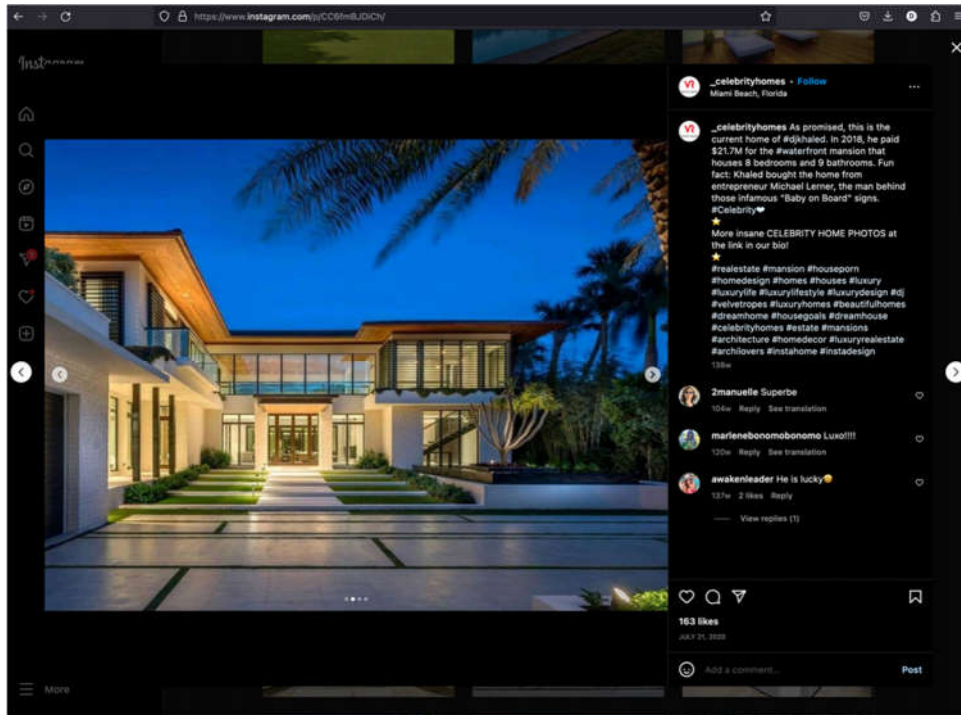
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14. Velvet Ropes attached “Cover photo by Douglas Elliman” to its unauthorized use of Copyrighted Photographs on its website, www.velvetropes.com.

15. Velvet Ropes displayed advertisements directly underneath its unauthorized use of Copyrighted Photographs on its website, www.velvetropes.com.

16. On or about July 21, 2020, Velvet Ropes copied and posted Copyrighted Photographs to its Instagram feed, <https://www.instagram.com/p/CC6fmBJDiCh/>, and <https://www.instagram.com/p/CCO7vRejz8b/>



17. Velvet Ropes received a direct financial benefit attributable to infringement of Copyrighted Photographs because Velvet Ropes placed advertisements, for which it received payment from the advertisers, directly under its display of Copyrighted Photographs on its

website, www.velvetropes.com. See Paragraph 13 of this document, which includes a record of the advertisements.

18. Prior to its infringement of Copyrighted Photographs, Velvet Ropes possessed direct knowledge “Douglas Elliman” was not the author nor copyright holder to Copyrighted Photographs.

19. Prior to its Velvet Ropes infringement of Copyrighted Photographs, Velvet Ropes possessed direct knowledge “Douglas Elliman” is the name of a real estate agency.

20. Despite direct knowledge “Douglas Elliman” was not the author nor copyright holder to Copyrighted Photographs, Velvet Ropes copied and displayed Copyrighted Photographs to its website, www.velvetropes.com.

21. Velvet Ropes is not and has never been licensed to use or display Copyrighted Photographs. Velvet Ropes never contacted Grossman to seek permission to use Copyrighted Photographs in connection with its website or for any other purpose.

22. Velvet Ropes never made any effort to identify the correct author and copyright holder of Copyrighted Photographs before copying and posting Copyrighted Photographs to its website, www.velvetropes.com.

23. Upon information and belief, Velvet Ropes located copies of Copyrighted Photographs on the internet and, rather than contact Plaintiff to secure licenses, simply copied Copyrighted Photographs for its own commercial use.

24. Plaintiff first discovered Velvet Ropes’ unauthorized use/display of Copyrighted Photographs on or about March 15, 2023. Following Plaintiff’s discovery, Plaintiff notified Velvet Ropes in writing of such unauthorized use. To date, Plaintiff has been unable to negotiate a reasonable license for the past infringement of Copyrighted Photographs.

COUNT I: COPYRIGHT INFRINGEMENT

25. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.

26. Copyrighted Photographs are original works of authorship, embodying copyrightable subject matter, and therefore subject to the full protection of the United States copyright laws (17 U.S.C. § 101 et seq.).

27. Barry Grossman owns a valid copyright in Copyrighted Photographs, having registered Copyrighted Photographs with the Register of Copyrights.

28. Plaintiff has standing to bring this lawsuit and assert the claim(s) herein as it has sufficient rights, title, and interest to such copyright.

29. Defendant reproduced, distributed, and publicly displayed Copyrighted Photographs without authorization from Plaintiff.

30. By its actions, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501, by reproducing, distributing, and publicly displaying Copyrighted Photographs for its own commercial purposes.

31. Defendant's infringement was willful as it acted with actual knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's copyright.

32. Plaintiff has been damaged as a direct and proximate result of Defendant's infringement.

33. Plaintiff is entitled to recover its actual damages resulting from Defendant's unauthorized use of Copyrighted Photographs and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits from infringement of Copyrighted Photographs, which amounts shall be proven at trial.

**COUNT II: REMOVAL AND ALTERATION OF INTEGRITY OF COPYRIGHT
MANAGEMENT INFORMATION PURSUANT TO 17 U.S.C. § 1202**

34. Plaintiff is informed and believes Defendant, without the permission or consent of Plaintiff, knowingly and with the intent to conceal infringement, provided false copyright management information, before displaying Copyrighted Photographs on Defendant's website, www.velvetropes.com. In doing so, Defendants violated 17 U.S.C. § 1202(a)(1) and (b)(1).

35. As a result of Defendant's actions, Plaintiff is entitled to actual damages or statutory damages pursuant to 17 U.S.C. § 1203(c), in such amount as deemed proper by the Court. Plaintiff is further entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 1203(b)(5).

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has infringed Plaintiff's copyrights in Copyrighted Photographs;
- b. A declaration that such infringement is willful (to the extent applicable);
- c. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election (to the extent applicable), an award of statutory damages for willful infringement up to \$150,000.00 for infringement of each photograph comprising the Copyrighted Photographs.
- d. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election (to the extent applicable), an award of statutory damages for providing false copyright management information up to \$25,000.00 for each photograph comprising the Copyrighted Photographs.
- e. Awarding Plaintiff its costs and (if applicable) reasonable attorneys' fees pursuant to 17 U.S.C. § 505;
- f. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;

- g. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to display, transfer, advertise, reproduce, or otherwise market Copyrighted Photographs or to participate or assist in any such activity; and
- h. For such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims for which there is a right to jury trial.

Dated: October 16, 2024

Luedeka Neely, P.C.

/s/ Michael J. Bradford

Michael J. Bradford

P.O. Box 1871

Knoxville, TN 37901

Telephone: (865) 546-4305

Email: mbradford@luedeka.com

Counsel for Plaintiff

-and-

The Law Office of David C. Deal, P.L.C.

/s/ David C. Deal

David C. Deal

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Charlottesville, VA 22902

Telephone: (434) 261-2704

Email: david@daviddeal.com

Counsel for Plaintiff

Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I hereby certify that, on October 16, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. mail. Parties may access this filing through the Court's electronic filing system.

s/Michael J. Bradford/
Michael J. Bradford